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Trial Lawyers Don't Want Religious Jurors

“The personal responsibility jurors tend to espouse traditional family values....Often, these jurors have strong religious beliefs....The only solution is to identify these jurors during voir dire and exclude them from the jury.”

Earlier this year, the American Trial Lawyers Association (ATLA) and West Publishing released a new resource book for lawyers, entitled *ATLA's Litigating Tort Cases*, which is touted as pulling together “tips and strategies from highly respected trial lawyers across the country to provide an invaluable litigation resource...for both novice and seasoned lawyers.”¹ In fact, ATLA boasts that, “Never before – in one comprehensive collection – has the brainpower of 100 of the most influential ATLA trial lawyers been amassed.”²

In Chapter 35, “Juror Bias,” author David A. Wenner offers the following advice to plaintiff trial lawyers (emphasis added):

If a trial lawyer wants to utilize effectively the norm of personal responsibility, he or she must understand the world of the jurors who are most likely to rely on this metaphor. It is helpful to divide the jurors into two groups: the personal responsibility group and compassion-altruistic group....Jurors who are extreme on the personal responsibility bias, or who have a high need for personal responsibility, will strongly favor the defendant. In contrast, jurors who are extreme on the compassionate-altruistic bias, or who have a high need for compassion, will strongly favor the plaintiff.

The personal responsibility juror tends to see the world with bright line rules on how people should act. Moreover, if people act as they should, then they will be rewarded with success in family and finance. People should be self-reliant, responsible, and self-disciplined. When people act irresponsibly and are not self-disciplined, there are consequences. People must be accountable for their conduct. ...

Like the welfare recipient, the plaintiff is perceived as person who should make every effort to work even though it will cause pain and hardship....After all, the thinking goes, it is only through responsibility to oneself, one's family, and one's community that one can achieve the rewards of life. If the plaintiff were personally responsible, he or she would be working, taking care of his or her family, and doing his or her share, no matter what it takes.

The personal responsibility jurors tend to espouse traditional family values. They conceptualize the family as a nuclear family with traditional roles. ...

Personal responsibility jurors often believe that when someone harms you, the best response is to turn the other cheek. ... The personal responsibility juror will often admit that he or she just does not believe that lawsuits do any good or are good for society. **Often, these jurors have strong religious beliefs.**

As discussed above, these jurors believe that what happened to plaintiff is God's will or part of some divine plan, and the whole matter is preordained. The jurors often believe the rewards come in the next life or heaven. A belief like this renders moot and makes it unnecessary to file a lawsuit. What is striking about jurors who feel this way is that they describe themselves as highly compassionate. The application of their beliefs in the lawsuit context, however, is quite harsh.

The motto of these jurors is that if a person is committed to personal responsibility, then he or she must first accept blame before blaming others. That means playing the blame game is unacceptable if the plaintiff was in the best position to avoid the injury. For jurors who hold extreme attitudes about personal responsibility, even the slightest degree of negligence disqualifies the plaintiff from suing. ... **The only solution is to identify these jurors during voir dire and exclude them from the jury.**

If the plaintiff does not fit the traditional roles of society, personal responsibility jurors will have difficulty understanding the plaintiff's world. For instance, these jurors may construe plaintiffs who have children out of wedlock as irresponsible. ... Thus, plaintiffs may be construed as generally irresponsible simply because of the conflict between the juror's perception of the plaintiff's values and his or her own values. ...

Established in 1946, ATLA is the world's largest trial bar with 60,000 members in the U.S., Canada and abroad. ATLA was founded to “safeguard victims' rights, strengthen America's civil justice system, promote injury prevention, and foster the disclosure of information crucial to public health and safety.”¹

Is ATLA saying that one way to “strengthen America’s civil justice system” is to keep religious people who believe in traditional values and personal responsibility off of juries?

¹<http://west.thomson.com/aboutus/news/atlawest03.asp?cookie%5Ftest=1>

²<http://www.atla.org/Publications/TORT.aspx>